

July 21, 2009

**OFFICE OF THE HEARING EXAMINER
CITY OF RENTON**

Minutes

APPLICANT/OWNER: Bob Singh
PO Box 98412
Des Moines, WA 98148

CONTACT: Cramer NW, Inc.
945 N Central Ave, #104
Kent, WA 98032

Bob Singh Preliminary Plat
File No.: LUA 09-050, PP, ECF

LOCATION: 19029 120th Ave SE

SUMMARY OF REQUEST: Requesting Preliminary Plat approval of a 2.14 acre site to be subdivided into 9 lots for single-family residential development and 3 Tracts for drainage and recreation.

SUMMARY OF ACTION: Development Services Recommendation: Approve subject to conditions.

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on July 7, 2009.

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

MINUTES

*The following minutes are a summary of the July 14, 2009 hearing.
The legal record is recorded on CD.*

The hearing opened on Tuesday, July 14, 2009, at 9:04 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<u>Exhibit No. 1:</u> Yellow file containing the original application, proof of posting, proof of publication and	<u>Exhibit No. 2:</u> Vicinity Map
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other documentation pertinent to this request.	
<u>Exhibit No. 3:</u> Preliminary Plat (Page 1 of 2)	<u>Exhibit No. 4:</u> Preliminary Plat (Page 2 of 2)
<u>Exhibit No. 5:</u> Conceptual Drainage Plan	<u>Exhibit No. 6:</u> Drainage Details
<u>Exhibit No. 7:</u> Tree Replacement Plan	<u>Exhibit No. 8:</u> Landscape Plan, Street Trees
<u>Exhibit No. 9:</u> Landscape Schematic Design Community Park	<u>Exhibit No. 10:</u> Memorandum from Mr. Wilson

At the request of the City Attorney, there were preliminary matters to be discussed.

Ann Nielsen, on behalf of the City of Renton, stated that this is a Preliminary Plat hearing and Vanessa Dolbee would be making a presentation later. There was a SEPA determination issued on this plat. A timely appeal of that determination was filed. That matter was supposed to come before the Examiner, however Mr. Wilson and the City have had ongoing dialogs and have been able to determine that the issues raised by Mr. Singh as part of the SEPA appeal were not a SEPA issue. Both parties would concede that fact; however in the interest of preserving the issues that were raised, the City did speak with Mr. Wilson and it was decided that those were issues that could be raised during the hearing of this Preliminary Plat hearing.

The issue that Mr. Wilson will present today is germane to the purposes of this hearing. All parties are in agreement with the City of Renton, while the applicant is vested to King County Development Codes, the City of Renton Procedures would apply. The issue is whether the definition of a short plat in King County is a development regulation or a procedure. Mr. Singh is going to be arguing that it is a development procedure. The difference in fees between short plat and preliminary plat between King County and the City of Renton comes to \$1,000.00.

If the Examiner decides that the definition of a short plat is a development regulation, then this plat would be vested to that definition. If the decision is procedural Mr. Wilson would then concede that it becomes a non-issue.

Terry Wilson, Cramer NW, Inc. stated that he is the owner of Cramer NW and a real estate attorney. The reason an appeal was submitted on the SEPA decision is that the project had been with King County for over a year before the annexation took place. There was some lost information with the transfer of the files and it took a year to get all the information together. The first indication that this plat would move from a short plat to a preliminary plat was in the SEPA determination. That determination stated that the basis of this conversion was the RCW on subdivisions. He provided a memorandum that states his issues along with an explanation of the issues. The RCW citation is: 58.17020 Definition of a Short Subdivision. This was the first time that he had been made aware of Renton's codes on plats. In the County, Tracts are used for recreation space and for storm and access and are added to the lots to come to a sum total of greater than 9. The County reduced them to a short plat with 9 lots. King County has a separate definition for Tracts with a special entity for the common areas and state that Tracts are not lots or building sites for purposes of residential buildings.

He is not aware of all the issues between a plat and short plat as to how differently they are treated. There is a \$1,000.00 difference in submittal fees, there could be other things but they are not aware of all the issues.

A discussion on policies and procedures was held between Ms. Nielsen, The Examiner and Mr. Wilson. The discussion finished with the issue of whether the short plat concept is procedural or a development regulation. Ms. Nielsen stated that she believed it to be procedural, if that is so, she believed that the parties were in agreement that it would then turn over for the City of Renton procedures to apply to this plat.

The Examiner stated that he felt this was not the forum to get that global answer and as such asked for the Preliminary Plat hearing to take place. That is what was scheduled for today and what he is to be hearing and deciding upon.

The hearing opened at 9:36 am with a presentation of the staff report by Vanessa Dolbee, Associate Planner, Community and Economic Development Department, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The applicant is requesting a preliminary plat approval for a 2.14 acre site subdivided into 9 lots and three tracts. The application is vested to King County standards and is located within the R-6 zoning designation.

The site is located at 19029 120th Avenue SE. The site is west of 120th Ave SE and north of SE 191st Street and is in the southern portion of the City of Renton. It was annexed on March 1, 2008.

Environmental Review Committee issued a Determination of Non-Significance – Mitigated with one mitigation measure. No appeals were filed.

In the City of Renton the zoning designation would be R-4, however because the project was vested to King County they will follow the R-6 King County Development Standards. The proposed development would allow for the future construction of 8 new single family dwelling units and is located in the Urban Residential Medium Land Use Designation for King County.

The minimum density is calculated by net building area, the square feet of recreation space and storm water control facilities are deducted from the area to result in a net buildable area of 1.9 acres which resulted in a minimum dwelling units required of 9.69 units. The nine units would be below the minimum required by King County. However, in King County you are allowed to proceed with less than minimum density, if there are ghost lots, which are included in Lot 9. Future development could happen by subdividing that further to additional lots to meet the minimum density. The actual density for this project would be 4.2 dwelling units per acre with the nine lots.

There are no minimum lots size or depth requirements in the King County R-6 zone, minimum lot width is 30 feet. The proposed lots all meet this requirement. The street setback is 10-feet for a primary structure and 20-feet for attached garages or carports or fenced parking areas. The interior setback is five feet within the R-6 zone. All proposed lots appear to contain adequate area to meet the setback requirements.

The existing residence and garage on proposed Lot 9 would be removed.

All lots would gain access from SE 191st Street, Lots 2, 3, 6 and 7 would be accessed via a joint use driveways noted as Tracts B and C on the plat. Lots 1, 4, 5 and 8 would be accessed via SE 191st Street, however in order

to reduce curb cuts along SE 191st Street, staff recommended that they should also utilize Tracts B and C for ingress and egress to their lots.

Each lot is required to have two off-street parking spaces and it appears that there is sufficient space for those parking spaces.

Drainage would be a water quality detention vault placed in Tract A, located on the eastern portion of the parcel at the intersection of SE 191st Street and 120th Avenue SE with a recreation space on top. The stormwater vault would connect to the existing 120th Avenue drainage system from there would be conveyed south along 120th Avenue to SE 192nd Street and then east towards Soos Creek. There have been no conveyance problems in this area.

Under King County it is required that the greater of 10 trees or 5% of the trees on site be retained. Although in a screening transmittal in the files from King County there was a determination that the subject site had been cleared without permits. Due to illegal clearing, the SEPA measure had required replacement of the cleared trees with 42 three inch caliper trees. These trees would be planted along the perimeter of the site with the exception of the southern border that is immediately adjacent to SE 191st Street. Street trees are also required by King County Code for subdivisions, they must be planted at a rate of 40-feet along the street frontage for public streets and additional trees that would be placed in the center of the lots. Nineteen street trees have been identified for this proposal.

Under King County Code for a development of this size they are required to provide 390 square feet per lot of recreation space on site. This would equate to 3,510 square feet of recreation space. In this plan the applicant has identified 11,724 square feet for recreation space. A tot lot would be located in the center with a Big Toy and benches.

A homeowners' association would be required to ensure maintenance of the recreation tract and other Tracts in this development. They would be responsible for common improvements on the Tracts.

Curbs and sidewalks are proposed for both the SE 191st Street and 120th Avenue SE frontages. Frontages along SE 191st street should be improved to the satisfaction of the City of Renton Development Services Division subject to King County Road Standards.

Traffic and Fire Mitigation Fees would be assessed and paid prior to plat recording.

Mr. Wilson stated they would be willing to change the tract dedication for driveway access to easements which would then allow them to fall into 9 lots or less. King County requires that you create tracts for access areas, if the City of Renton would allow those to be easements, they would be more than willing to change the labeling of those to easements in order to become a short plat.

Kayren Kittrick, Community and Economic Development Department stated that King County wants small Tracts which are a King County convention, not a City of Renton convention. It tends to be confusing as to who would take care of maintenance, it appears that the Homeowners' Association would be required to maintain them under either designation.

Sewer and water are all under Soos Creek and has been verified that they can handle the development.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 10:04 a.m.

FINDINGS, CONCLUSIONS & RECOMMENDATION

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The applicant, Terry Wilson, Cramer NW, Inc for Bob Singh, filed a request for a Preliminary Plat.
2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. The Environmental Review Committee (ERC), the City's responsible official issued a Determination of Non-Significance - Mitigated (DNS-M).
4. The subject proposal was reviewed by all departments with an interest in the matter.
5. There was no opposition from the public regarding the subject proposal.
6. The subject site is located at 19029 120th Avenue SE. The subject site is located on the west side of 120th with additional frontage along SE 191st Street. The subject site is located south of Petrovitsky Road and east of SR-167.
7. The subject site was annexed to the City with the adoption of Ordinance 5327 enacted in March 2008.
8. The applicant filed the original application while the property was still under King County's jurisdiction. Therefore, the proposal is vested to King County's development standards including density, setbacks, lot sizes, road standards and other similar standards. The applicant is bound by Renton's procedural requirements.
9. The map element of the Renton Comprehensive Plan designates the area in which the subject site is located as suitable for the development of low density single family uses, but does not mandate such development without consideration of other policies of the Plan. In King County the proposal was governed by Urban Residential Medium policies.
10. The subject site is currently zoned R-4 (Single Family - 4 dwelling units/acre) in Renton but is entitled to develop under the King County R-6 standards.
11. The subject site is approximately 2.14 acres or 93,218.4 square feet. The parcel is approximately 529 feet deep (east to west) by 148 feet wide (frontage along 120th).
12. The parcel slopes very gently down toward the southwest. There are no critical areas on the subject site.
13. Trees were removed from the site when the applicant did grading. No permit was issued for the tree

removal. The ERC required replacement trees to be planted as part of its environmental review.

14. The applicant proposes dividing the subject site into nine (9) lots and three tracts. Due to the requirements of a minimum density, the applicant has proposed that Proposed Lot 9 be oversized allowing for future re-division of that lot into additional lots. The lots would be in two main tiers with Proposed Lots 1, 4, 5 and 8 being the south tier located directly on SE 191st Street. Proposed Lots 2, 3, 6 and 7 would be the north tier and would be interior lots reached by either tracts or easement. The easements would be created off of SE 191st between or through Proposed Lots 1 and 4 and 5 and 8 respectively. Proposed Lot 9 would be near the east end of the plat next to the stormwater detention tract, Tract A. The eight main lots would all be in the 5,600 to 5,800 square foot size range. Proposed Lot 9 would be approximately 28,370 square feet. (Lot size numbers vary between exhibits but are generally within the ranges noted).
15. As noted, four lots front along 191st but staff has recommended that the eight lots take their access from the easements that will serve the rear, north or interior lots to minimize curb cuts.
16. The density for the plat would be 4.2 dwelling units per acre. Based on the net buildable area (using King County standards), the minimum number of lots would be 10. Therefore, the applicant has proposed the future re-division of Proposed Lot 9. It could be divided into 5 lots at a future time. Staff noted that it only reviewed the current proposal and legal notice was for the 9 lot subdivision so consideration of further platting at this time would not be possible.
17. King County requires streets trees be planted at the rate of one tree for each 40 linear feet along streets. Nineteen trees have been proposed. Additionally, 10 trees per acre or 5% of trees are to be retained. As noted, the site was cleared without appropriate permits. The ERC imposed replanting mitigation.
18. King County, unlike Renton, has specific recreation and open space requirements. Each single family lot requires 390 square feet of consolidated recreational space. The nine lots would require 3,510 square feet whereas the applicant is proposing 11,724 square feet, an amount in excess of requirements. The applicant also meets the minimum dimension of a 35-foot width. Plats over five lots require a tot lot which is proposed. The recreation space will be accommodated on Tract A and will be built over the stormwater detention system.
19. The subject site is located within the Renton School District. The project is expected to generate approximately 4 or 5 school age children. These students would be spread across the grades and would be assigned on a space available basis. No mitigation fees are required by the Renton School District.
20. The development will increase traffic approximately 10 trips per unit or approximately 90 trips. Approximately ten percent of the trips, or approximately 9 additional peak hour trips will be generated in the morning and evening. King County code allows for mitigation fees and the City will impose its standard fee.
21. Stormwater will be directed to Tract A and then into existing systems and then to Soos Creek.
22. Both domestic water and sewer service will be provided by Soos Creek District.

23. Staff has recommended that the project offset its impacts on emergency services by paying the Fire Mitigation fees adopted by the City.
24. The applicant raised the issue of whether the proposed subdivision was appropriately reviewed by the City. King County determined that the division of the subject site into nine (9) developable lots and three (3) tracts (two for access and one for joint use for stormwater detention and recreation) was a Short Plat. The City determined under its procedures that this land division was a Preliminary Plat since there were a total of more than ten (10) parcels - nine lots and three tracts. The City criteria are the number of resulting separate parcels and not whether the parcels can support a free-standing residential or commercial use. There are certain ramifications of one process over the other but that was not fully explored. This office determined that the legal notice for the public hearing described a Preliminary Plat and therefore, there was no ability to determine the issue in this specific forum.

CONCLUSIONS:

1. The proposed Preliminary Plat appears to serve the public use and interest. While the plat is not bound by Renton standards, in this case, the plat comes close to complying with the Comprehensive Plan's goals and policies while also meeting the goals and objectives under the King County plan. The lots are rectangular, have sufficient area for reasonably sized single family homes. The plat will provide street tree plantings as well as replace trees removed without permit.
2. The plat will increase the tax base of the City and also help offset costs associated with providing services by paying mitigation fees. The applicant will be providing on-site recreation as required under King County regulations. The site can be served by domestic water and sewer services and stormwater will be accommodated by an on-site facility and will not burden off-site infrastructure.
3. The development of the plat will clearly increase traffic and the general hubbub of an expanding population but these impacts were anticipated by both King County's codes and plans as well as the City's codes and plans.
4. The applicant will be improving the frontage rights-of-way adjacent to the plat helping with travel to and from the plat as well as for those passing by the plat.
5. The applicant has created an oversized lot to permit further subdivision of the site to meet the density requirements mandated for this property and vicinity.
6. In conclusion, the proposed plat appears to be reasonable and should be approved by the City Council.

RECOMMENDATION:

The City Council should approve this nine-lot Preliminary Plat subject to the following conditions:

1. The existing residences shall be removed or modified in order to be compliant with the setbacks of the R-6 zone prior to final plat approval.
2. A note shall be placed on the face of the plat requiring orientation for the front yard of all lots

towards SE 191st Street.

3. The applicant shall establish a homeowners' association for the development, which would be responsible for any common improvements and/or tracts (including the recreation and private access tract) within the plat prior to final short plat approval.
4. A note shall be placed on the face of the plat restricting direct access from SE 191st Street for all lots except Lot 9. Access shall be provided via the Joint Use Driveway Tracts B and C.
5. The frontage along SE 191st Street and 120th Ave SE, for the full length of the property shall be improved to the satisfaction of the City of Renton Development Services Division subject to the King County Road Standards prior to final plat recording.
6. The applicant shall pay a Transportation Mitigation Fee based on the new average daily trips attributed to the project
7. Any future residence constructed within the plat shall be sprinkled unless the requirement is removed by the City of Renton Fire Marshal or his/her designee. A note shall be recorded on the face of the short plat to this effect.
8. The applicant shall pay a Fire Mitigation Fee based on \$488.00 per new single-family residential unit.

ORDERED THIS 21st day of July 2009.

FRED J. KAUFMAN
HEARING EXAMINER

TRANSMITTED THIS 21st day of July, 2009 to the following:

Mayor Denis Law
Jay Covington, Chief Administrative Officer
Julia Medzegian, Council Liaison
Gregg Zimmerman, PBPW Administrator
Alex Pietsch, Economic Development

Dave Pargas, Fire
Larry Meckling, Building Official
Planning Commission
Transportation Division
Utilities Division

Jennifer Henning, Development Services
Stacy Tucker, Development Services
Marty Wine, Assistant CAO

Neil Watts, Development Services
Janet Conklin, Development Services
Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100 of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., August 5, 2009.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., August 5, 2009.**

If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.